

## VIDEO CONFERENCING GUIDELINES

### INTRODUCTION

As of today, Video conferencing facility is available at 27 Court complexes, supported with facility of document presenter at 23 Court complexes, thereby enabling these Court complexes to receive evidence and submissions from witnesses or the persons involved in the court proceedings in the circumstances, where it would be expensive, inconvenient or otherwise not desirable for a person to attend a court in person.

At present video conferencing facility is being extensively used for the purpose of remand by the courts stationed at District Headquarters and also by the Sub Divisional Courts from where the distance of respective jails exceeds 50 Kms.

Video conferencing facilities can be used in matters including remands, bail applications and in civil and criminal trials, where a witness is located intra-state, inter-state or overseas. However, it is for the Court to decide where the evidence should be recorded by video conferencing, but these guidelines will not apply to proceedings under Section 164 of Cr.P.C. These guidelines will also apply mutatis mutandis to a local Commissioner appointed by the Court to record the evidence.

### CONTEXT

In these guidelines, reference to the '**court points**' means the Courtroom or other place where the Court is sitting or the place where Commissioner appointed by the Court to record the evidence by video conference is sitting and the '**remote point**' is the place where person to be examined via video conference is located, for example, a prison.

**Person to be examined** includes a person whose deposition or statement is required to be recorded or in whose presence certain proceedings are to be recorded.

Wherever possible, proceedings by way of video conference shall be conducted as judicial proceedings and the same courtesies and protocols will be observed. All relevant statutory provisions applicable to judicial proceedings including the provisions of

the Information Technology Act, 2000 and the Indian Evidence Act, 1872 shall apply to the recording of evidence by video conference.

There shall be Co-ordinators both at court point as well as at the remote point.

In the High Court, NIC staff stationed at High Court shall be the co-ordinator at the court point.

In the District or Taluka Courts, officials in-charge of the Video Conferencing Facility (holding the post of System Officer/Assistant Programmer/System Assistant/CIS Master Trainer) as nominated by the District Judge shall be the co-ordinator at the court point.

The Co-ordinator at the remote point may be any of the following:

- (i) Where the person to be examined is overseas, the Court may specify the co-ordinator out of the following:-
  - (a) The official of Consulate/Embassy of India.
  - (b) Duty certified Notary Public/Oath Commissioner.
- (ii) Where the person to be examined is in another State/U.T., a judicial Magistrate or any other responsible official as may be deputed by the District Judge concerned or Sub-Divisional Magistrate or any other responsible official as may be deputed by the District Collector concerned.
- (iii) Where the person to be examined is in custody, the concerned Jail Superintendent or any other responsible official deputed by him.
- (iv) Where the person to be examined is in a hospital, public or private, whether run by the Central Government, the State Government, local bodies or any other person, the Medical Superintendent or In-charge of the said hospital or any other responsible official deputed by him.
- (v) Where the person to be examined is a juvenile or a child who is an inmate of an Observation Home/Special Home/Children's Home Shelter Home, the Superintendent/Officer In-charge of that Home or any other responsible official deputed by him.

(vi) Where the person to be examined is in Nirmal Chhaya, the Superintendent/Officer In-charge of the Nirmal Chhaya or any other responsible official deputed by him.

(vii) Wherever co-ordinator is to be appointed at the remote point under sub-Clause (ii), (iii), (iv), (v) & (vi), the Court concerned will make formal request through District Judge concerned to concerned official.

(viii) In case of any other person, as may be ordered by the Court.

#### **APPEARANCE BY VIDEO CONFERENCE**

A Court may either *suo moto* or on an application of a party or a witness, direct by reasoned order that any person shall appear before it or give evidence or make a submission to the Court through video conference.

#### **PERSONS UNCONNECTED WITH THE CASE**

No third person shall be allowed to be present during video conferencing at the remote point.

Third parties may be allowed to be present during video conferencing subject to orders to the contrary, if any, by the Court.

Where, for any reason, a person unconnected with the case is present at the remote point, then that person shall be identified by the co-ordinator at the remote point at the start of the proceedings and the purpose for his being present explained.

#### **PRE VIDEO CONFERENCE ARRANGEMENTS**

The co-ordinators at both the points shall ensure that the minimum requirements are in position at court point and remote point and shall conduct a test between both the parties well in advance, to resolve any technical problem so that the proceedings are conducted without interruption.

It shall be ensured by the co-ordinator at the remote point that:-

(i) The person to be examined or heard is available and ready at the room earmarked for the video conference at least 30 minutes before the scheduled time.

- (ii) No other recording device is permitted except the one installed in the video conference room.
- (iii) Entry into the video conference room is regulated.

It shall be ensured by the co-ordinator at the court point that the co-ordinator at the remote point has certified copies or the soft copies of all or any part of court record in a sealed cover directed by the Court sufficiently in advance of the scheduled video conference.

The court shall order the co-ordinator at the remote point or at the court point wherever it is more convenient, to provide:-

- (i) A translator in case the person to be examined is not conversant with Court language.
- (ii) An expert in sign language in case the person to be examined is speech and/or hearing impaired.
- (iii) For reading of documents in case the person to be examined is visually challenged.
- (iv) An interpreter or special educator, as the case may be, in case the person to be examined is temporarily or permanently mentally or physically disabled.

### **PROCEDURES GENERALLY**

The identity of the person to be examined shall be confirmed by the court with the assistance of the co-ordinator at the remote point at the time of recording of the evidence.

In this regard, whenever a witness is to be examined through video conferencing, he shall be directed in the summons to bring his original photo identity proof at the time of testimony, which shall be checked by the Co-ordinator at the remote point and its attested or self certified copy shall be retained.

The Co-ordinator at the remote point shall introduce the person to be examined as well as any other person/third party present at the remote point during video conferencing.

The Presiding Officer of the Court shall satisfy before the video conferencing, that the person to be examined at the remote point can be seen and heard clearly and similarly that the person to be examined at the remote point can clearly see and hear the Court; and then record a certificate to that effect.

In civil cases, party requesting for recording statement of the person to be examined by video conferencing shall confirm to the Court the location of the person, his willingness to be examined by video conferencing, place and facility of such video conferencing.

In criminal cases, where the person to be examined is a prosecution witness or court witness, the prosecution and where person to be examined is a defence witness, the defence counsel will confirm to the Court his location, willingness to be examined by video conferencing, place and facility of such video conferencing.

In case person to be examined is an accused, prosecution will confirm his location at remote point.

Video conferencing shall ordinarily take place during the court hours. However, the Court may pass suitable directions with regard to timings of the video conferencing as the circumstances may dictate.

The record of the proceedings including transcription of statements shall be prepared at the court point under the supervision of the Court and accordingly authenticated with a certificate that the contents of the statement recorded through video conferencing, have been read over and explained to the witness present at the remote point (remote point to be specified), and that witness has accepted the contents of the statement as created.

The soft copy of the transcript digitally signed by the Presiding Officer at the court point shall be sent by e-mail through NIC or any other Indian Service Provider to the remote point, where printout of the same will be taken and signed by the deponent. A scanned copy of the statement signed by the deponent at the remote point would be sent by e-mail through NIC or any other Indian Service Provider to the court point; whereas the hard copy along with documents, if any, would also be sent subsequently, preferably within three days of the recording, by the Co-ordinator at the remote point to the court point by way of registered/speed post.

The Court may, at the request of a person to be examined, or on its own motion, taking into account the best interests of the person to be examined, direct appropriate measures to protect his privacy keeping in mind his age, gender and physical condition.

Where a party or a lawyer requests that in the course of video conferencing, some privileged communication may have to take place, Court will pass appropriate directions in that regard.

In case any party or his/her authorized person is desirous of being physically present at the remote point at the time of recording of the evidence, it shall be open for such party to make arrangements at party's own costs including for appearance/representation at the remote point subject to orders to the contrary by the Court.

#### **PUTTING DOCUMENTS TO A PERSON AT A REMOTE POINT**

If in the course of examination of a person at remote point by video conference, it is necessary to put a document to him, the Court may permit the document to be put in the following manner:-

- (i) If the document is at the court point, by transmitting a copy of it to the remote point electronically including through a document visualizer and the copy so transmitted being then put to the person.
- (ii) If the document is at the remote point, by putting it to the person and transmitting a copy of it to the court point electronically including through a document visualizer. The hard copy would also be sent subsequently to the court point by courier/mail.

#### **CONDUCT OF PROCEEDINGS**

Establishment and disconnection of links between the court point and the remote point would be regulated by orders of the Court.

The Court shall at all times have the ability to control the camera view at remote point so that there is an unobstructed view of all the persons present in the room.

The Court shall have a clear image of each deponent to the extent possible so that the demeanour of such person may be observed.

#### **COST OF VIDEO CONFERENCING**

In criminal cases being prosecuted by State, the expenses of the video conference facility including expenses of preparing soft copies/certified copies of the Court record for sending to the coordinator at the remote point and fee payable to

translator/interpreter/special educator, as the case may be, and to the co-ordinator (if any) at the remote point shall be borne by State or as ordered by the Court.

In civil cases, as a general rule, the party making the request for recording evidence by video conference shall bear the expenses.

In other cases, the court may make an order as to expenses as it considers appropriate taking into account rules/instructions regarding payment of expenses to complainant and witnesses as may be prevalent from time to time.

**RESIDUARY CLAUSE**

Such matters with respect to which no express provision has been made in these guidelines shall be decided by the Court consistent with furthering the interests of justice.